THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No.5092 of 2006

Dated: 16.03.2006

Between:

Ayesha Fathima W/o Mohd. Saleem Pasha,

R/o 746, Saheen Nagar, Pahadishareef,

Ranga Reddy.

… **PETITIONER**

And:

A.P. State Minorities Finance Corporation,

V Floor, HAJ House, Nampally, Hyderabad,

Represented by its Vice Chairman and Managing Director

and another.

… **RESPONDENTS**

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

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ORDER:

The petitioner seeks a Writ of Mandamus to declare the order of the Vice Chairman and Managing Director, Andhra Pradesh State Minorities Finance Corporation, first respondent herein, vide proceedings No. 1219/APSMFC/Admn/AS/2005, dated 02.03.2006, as arbitrary and illegal, and seeks a further direction to the first

respondent to place the second respondent under suspension.

It is the case of the petitioner that the second respondent is her husband, against whom a Criminal Case is registered in Crime No. 174 of 2005 of Pahadishareef Police Station for the alleged offences punishable under Sections 498-A and 506 of the Indian Penal Code, 1860. According to the petitioner, though the applicable Service Rules obligates the first respondent to place the second respondent under suspension in view of the registration of the above crime, the first respondent has not taken any action on the representation filed by her. Complaining the said inaction, the petitioner approached this Court earlier by filing W.P.No.28231 of 2005. A learned Single Judge of this Court, by order dated 24.01.2006, disposed of the said writ petition recording a finding that the suspension is not a matter of course merely because a case is registered for the alleged offences. The learned Judge, however, directed the first respondent to examine the representation of the petitioner as to whether the circumstances warrant passing of an order of suspension against the second respondent. In compliance of the said order, the impugned order is passed by the first respondent declining to place the second respondent under suspension and further observing that the matter will be reexamined, if any such instructions are received from the police, where the Criminal case filed against the husband of the petitioner is being investigated.

It is submitted by Sri S.R.Sanku, learned counsel for the petitioner, that as per Rule 20(b) of the Employees Service Rules, Conduct, Discipline and Appeal Rules, 1985 (for short “the Rules”), which are applicable to the first respondent-Corporation, it is obligatory on the part of the first respondent to place the second respondent under suspension, if a criminal case is registered against any delinquent-employee, and is under investigation or trial.

It is difficult to accept the said submission of the learned counsel. The Rules merely empower the management to pass an order for placing an employee under suspension, and it is for the employer to consider for placing an employee under suspension, having regard to the facts and circumstances of each case. Merely because a criminal case is registered and is under investigation or trial, that itself

cannot be said that the said employee is to be suspended. In that view of the matter, I do not find any illegality in the impugned order.

The writ petition is devoid of merits, and is accordingly dismissed. There shall be no order as to costs.

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16.03.2006

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